UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1072
25 March 1997

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-sixth session

SUMMARY RECORD OF THE 1072nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 February 1995, at 10 a.m.

Chairman: Mr. GARVALOV

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Seventh to tenth periodic reports of Trinidad and Tobago

ORGANIZATIONAL AND OTHER MATTERS

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.95-15494 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Seventh to tenth periodic reports of Trinidad and Tobago (CERD/C/224/Add.1)

1. At the invitation of the Chairman, Mrs. Henry-Placide and Mr. Placide (Trinidad and Tobago) took places at the Committee table.

2. Mrs. HENRY-PLACIDE (Trinidad and Tobago) said that the report of Trinidad and Tobago under consideration covered the period from 1987 to 1993 and combined the seventh, eighth, ninth and tenth periodic reports. The Government had endeavoured to respond to the observations made by the Committee during its consideration in 1987 of the sixth periodic report (CERD/C/116/Add.3), particularly by providing more detailed information on implementation of the Convention. However, the statistics on the ethnic composition of the population were only estimates, as the Government carefully avoided pursuing development strategies that encouraged ethnic divisions within the Trinidadian nation.

3. The CHAIRMAN thanked the delegation and asked Mr. Chigovera, country rapporteur for Trinidad and Tobago, to present his observations and formulate his questions on the State party report.

4. Mr. CHIGOVERA welcomed the fact that Trinidad and Tobago had decided to resume the submission of its periodic reports, after an eight-year hiatus. That committed the Government to continuing the dialogue that had thus been re-established with the Committee. However, unlike the sixth report of Trinidad and Tobago, submitted in 1987, the quality and presentation of its tenth report left something to be desired, as it was not in accordance with the revised general guidelines contained in document CERD/C/70/Rev.3. He hoped the Government would take those guidelines into account in preparing subsequent reports.

5. Some of the issues to which the Committee had drawn the delegation's attention in 1987 had not been dealt with in the present report, for example, the question of measures taken to eliminate racial discrimination in the field of employment, as well as remedies available to victims of discriminatory employment practices. To state, as the Government did in its report, that racial discrimination did not exist in Trinidad and Tobago was not sufficient to persuade the Comittee that the country was complying with its obligations under article 5 of the Convention. Furthermore, the response to another question raised in 1987 did not appear in the report: the reason why there were no political refugees in Trinidad and Tobago, whereas in some neighbouring countries there was political persecution which led to refugee flows, or whether refugees in Trinidad and Tobago were accorded another type of status.

6. Noting from paragraph 11 of the report that Trinidad and Tobago was not a party to the Convention relating to the Status of Refugees or to the Protocol relating to the Status of Refugees, and that admission to Trinidad

and Tobago was governed by domestic legislation, he inquired what status was granted to any refugees in Trinidad and Tobago and under what legal provisions refugees could be turned away.

7. With regard to article 6, it would be useful for the Committee to know whether the victims of racial discrimination had prompt and effective remedies under the Constitution, as mentioned in paragraph 32 of the report.

8. As he had done in 1987, he again asked the delegation whether the creation of political parties on a racial or ethnic basis was prohibited, given the multi-ethnic nature of Trinidadian society. In relation to article 7 of the Convention, he wished to know whether there were any information programmes designed to familiarize police officers with the provisions of the Convention. That question was all the more important in that paragraph 31 of the report seemed to suggest a trend towards ethnic division in different employment sectors. Trinidadians of African descent gravitated towards the public sector and security services, while those of Indian descent predominated in trade and agriculture. He also asked for clarification on the implementation of article 4 of the Convention, on the prohibition of all propaganda that promoted racial superiority.

9. He doubted whether the provisions of article 4 of the Sedition Act were sufficient to meet the State party's obligations under article 4, subparagraphs (a) and (b), of the Convention. The willingness expressed by the Government in various parts of the report to combat racial discrimination in all its forms should be expressed in laws that clearly reflected the Convention, particularly article 4.

10. Noting that paragraph 4 of the report mentioned the special legislation regulating Muslim marriages and divorces and Hindu marriages, he asked why those Acts were not governed by the general marriage regime and whether the existence of special legislation met a specific need. Along similar lines, he said it would be helpful to know why special legislation had been enacted to promote the activities of various interest groups, as stated in paragraph 6 of the report.

11. He asked whether the Centre for Ethnic Studies of the University of the West Indies, referred to in paragraph 8 of the report, helped promote racial harmony in Trinidad and Tobago and whether it influenced national policies on race relations. He also asked why it was stated in paragraph 14 that "persons who consider themselves to be Carib or of Carib ancestry are part and parcel of the society", which seemed to suggest that such persons did not constitute a distinct and identifiable ethnic group. He asked what measures had been taken to reduce hostility, tensions and violence in respect of the community of Lebanese and Syrian descent.

12. Mrs. SADIQ ALI, noting that according to paragraph 1 of the report, the victims of discrimination could bring their cases before the High Court, asked whether Trinidadian law provided for less protracted and less costly remedy procedures. She also wondered whether the fact that no cases of alleged State violations of human rights on grounds of race, origin, colour, religion or sex had been brought before the High Court might not be due to unfamiliarity with

the provisions of the Convention, particularly article 2, paragraph 1 (b), by which each State party undertook not to sponsor, defend or support racial discrimination by any persons or organizations.

13. Given the multi-ethnic composition of Trinidadian society, it would be very useful to secure the dissemination in Trinidad and Tobago of the provisions of article 5 of the Convention in order to prohibit and eliminate racial discrimination in every sector of social life, and particularly in establishments, services and facilities used by the public. Paragraph 5 of the report seemed to suggest that the educational sector was free of all forms of racial discrimination; she wondered whether there had been any incidents of incitement to racial hatred and what steps had been taken to curb such acts under the Sedition Act, which was the relevant national legal instrument. It would also be useful for the Committee to know the results of the survey of recruitment practices in the public and private sectors which was scheduled to be carried out in 1994, and whether the survey had revealed cases of racial discrimination in hiring.

14. Mr. WOLFRUM said he was surprised that Trinidad and Tobago had enacted a genocide act without being a party to the Convention on the Prevention and Punishment of the Crime of Genocide. What was the reason for that unusual situation?

15. He also asked for further information on the status of the Centre for Ethnic Studies, referred to in paragraph 8 of the report. Was it independent of the Government? What was its make-up? To what authority was it answerable? What were its functions and its activities? The results of its survey on recruitment practices in the public and private sectors and the discussions on the results of the survey would be very valuable to the Committee.

16. Trinidadians of African descent and those of Indian descent were more or less equal in number, but they were unequally employed in the public and private sectors, trade and agriculture. He wished to know the reasons for that situation and whether the Government had taken steps to redress the ethnic imbalance with regard to employment. He also wished to know the reasons for the changes in the demographic statistics cited in paragraphs 9 and 10 of the report. He was surprised by the disproportionate percentages of the ethnic groups comprising the total population and by the number of denominational schools associated with each group. He did not understand, for example, why Catholic schools were so predominant, whereas Hindu schools seemed few in number. What were the reasons for that situation?

17. He regretted that the report contained so little information on school curricula, since the content of curricula was extremely useful for understanding the state of race relations in a multi-ethnic society. He also asked why people who considered themselves Caribs or of Carib descent were not treated as a separate racial group, since normally that required only that they consider themselves as such. He asked what the status of the Convention was in the Trinidadian legal system. Had it been widely disseminated and incorporated into national law? Could it be invoked before the courts?

18. Mr. de GOUTTES noted that, according to the report, the Sedition Ordinance was adequate for the purpose of implementing the country's obligations under article 4 of the Convention (para. 27); that all persons were fully protected against discrimination under the provisions of the Constitution and through the judiciary (para. 32); and that no cases had been brought before the High Court alleging infringement of human rights by the State on the basis of race or origin, colour, religion or sex (para. 1). However, he wondered whether the State was complying fully with its obligations under article 4. During the Committee's consideration of the sixth periodic report (CERD/C/116/Add.3), the Chairman had said that the Sedition Act posed a problem in that a seditious intention, as defined by the Act, was extremely difficult to prove in practice and that the Act, while it conformed to some of the provisions of article 4, subparagraph (a), in no way conformed to those of subparagraph (b). He therefore wondered whether specific legislative measures had been taken since 1987 to supplement existing measures concerning the implementation of article 4 of the Convention. He was suprised that no case of racial discrimination had been brought before the courts. Did Trinidad and Tobago assure everyone remedies, as called for by article 6 of the Convention? Had the authorities taken any steps to ensure that people were better informed of their rights and to make the provisions of the Convention better known?

19. He also wished to know what the literacy rate was in Trinidad and Tobago and whether there were statistics on access by the various ethnic groups to higher education.

20. Mr. LECHUGA HEVIA asked what was the purpose of the special laws referred to in paragraph 6 of the report. What did those laws govern, and how did they protect the interests of different groups? Rather than avoiding divisiveness among groups, such laws probably tended more to divide the interests of the different groups. He also wondered whether all social groups enjoyed equal access to higher education.

21. Mr. SONG said he also would like further information on the substance of the six laws mentioned in paragraph 6 of the report. He also inquired what were the concrete results of the research conducted by the Centre for Ethnic Studies, mentioned in paragraph 8 of the report.

22. The percentage of the population under the religious category "other/not stated" (para. 9) was rather high. He wondered to which ethnic groups the individuals represented by that figure belonged. The report indicated that members of all ethnic groups had the right to vote and to be elected. What, however, was the real situation? Were all ethnic groups equitably represented in Parliament?

23. Mr. YUTZIS said he wished to go back to the problem of the implementation of article 4, subparagraph (b), of the Convention, which in his opinion Trinidad and Tobago had not yet really respected. Article 4 of the Sedition Act did not seem enough to condemn organizations or organized groups advocating discrimination in any form. Referring to the call for vigilance by the Minister for Foreign Affairs in his message on the occasion of the International Day for the Elimination of Racial Discrimination on 22 March 1993, he stressed the importance of the prevention of racial

discrimination and said it would be a good idea for Trinidad and Tobago to acquire the necessary legislative means to condemn any organizations that might emerge and that condoned racist acts. He hoped that in its next report Trinidad and Tobago would be able to record progress in that domain.

24. Noting that the situation in several neighbouring countries was resulting in numerous departures, he expressed surprise that no law existed on the protection of refugees. He would like information on the proportion of students belonging to the different ethnic groups who had completed their primary, secondary and tertiary education, as well as on the representation of each ethnic group in Parliament.

25. Mr. SHERIFIS welcomed the renewed dialogue with Trinidad and Tobago but said he was surprised that contact had been interrupted for so long. He hoped the Government would not wait as long before submitting its next report.

26. Returning to the points he had raised during consideration of the sixth periodic report, he said he agreed with Mr. Wolfrum in stressing once again the importance of the implementation of article 7 of the Convention, and truly hoped that the State party would take that observation into account in concrete fashion. He again asked the delegation whether there were special programmes designed to inform police staff of the provisions of the Convention. He wished to know whether the authorities intended to make the declaration referred to in article 14 of the Convention; the current report did not address that point.

27. He further asked why, as indicated in its report, Trinidad and Tobago was not a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees or the Protocol relating to the Status of Refugees. He asked the delegation to convey the Committee's concern on that matter to the authorities. On fundamental human rights and freedoms, he referred to paragraph 13 of the report, according to which legislation inconsistent with those rights could be passed only by qualified majorities in Parliament. That would therefore mean that Parliament could adopt a law that was incompatible with the protection of fundamental rights. The possibility of contesting such a law in the courts seemed to represent a very flimsy guarantee in that connection. Noting that no prosecutions had been brought under the Sedition Ordinance in the past 22 years, he wondered whether the population was well informed about the provisions of the Convention and whether any steps were taken to publicize them.

28. Mr. van BOVEN said he agreed with the observations and questions raised by previous speakers and welcomed the fact that, according to the report (paras. 36 and 37), there had been no sectarian violence in Trinidad and Tobago and in that country there was no oppression or repression of any religious or ethnic group. He was surprised that it was the Sedition Ordinance that declared incitement to racial hatred to be a punishable offence. It would be useful to know whether the Government, in accordance with the Committee's general recommendation XVII (42) and various recommendations of the Commission on Human Rights and the General Assembly, intended to establish a national institution to facilitate the implementation of the Convention.

29. Mr. ABOUL-NASR asked why the Caribs had all but disappeared, what their exact number was and whether measures were being taken to help them, particularly in the economic and educational fields, so as to compensate them for the injustices they had suffered.

30. It would also be useful to have more specific information on an attempted coup d'état by Muslims in Trinidad and Tobago and to learn whether its perpetrators had been prosecuted.

31. The CHAIRMAN, speaking as a member of the Committee, endorsed the observations made by other Committee members on the report of Trinidad and Tobago. He stressed the need to respect the principle set forth by the General Assembly and the World Conference on Human Rights that States which had voluntarily ratified an international instrument were obliged to comply scrupulously with the obligations resulting therefrom, particularly the obligation to submit reports. He hoped that the delegation would convey the Committee's concern on that point to the Government so as to facilitate a fruitful and constructive dialogue.

32. Mrs. HENRY-PLACIDE (Trinidad and Tobago) said that her country had no refugee problem because people wishing to emigrate went to other countries, such as the United States. However, two members of a Haitian junior football team had recently applied for, and been granted, refugee status. The other members of the team, who had wanted to take refuge in the United States, had decided to return to Haiti after their request had been rejected by the United States Embassy in Port-of-Spain.

33. The Centre for Ethnic Studies was totally independent of the State, even though the Government and other States in the region provided it with assistance. The survey it had conducted, which was mentioned in paragraph 8 of the report, had been made public in 1994 and was currently being studied by the Government. The delegation unfortunately did not have a copy.

34. The differences noted between the information provided in paragraphs 9 and 12 of the report were due to historical reasons. After the abolition of slavery, former slaves, who were of African descent, had settled in towns, while people of Indian descent, who had been hired as agricultural workers, remained in the rural areas, mainly where sugar cane was grown.

35. With respect to the relative importance of the different religions in each of the ethnic groups, the Government had not considered it useful to provide statistics because there was no correlation between belonging to a given ethnic group and practising a given religion, and everyone was free to practise the religion of his or her choice.

36. As to the ethnic origin of the members of the Government, it should be stressed that the Government was fully multiracial. The President, for example, was of Indian descent and a Muslim; the Prime Minister was of African descent; and the Minister for Foreign Affairs was of Indian descent. Approximately one half of the members of Parliament were of Indian descent.

37. There was no racial obstacle to access to education. Students wishing to take higher studies were selected on the basis of their examination results

at the end of secondary school. Similarly, students wishing to take secondary studies must sit an entrance examination, which was the same throughout the country.

38. In its next report the Government of Trinidad and Tobago would respond to all the other questions raised by the members of the Committee. She assured the Committee that the Government would consider all its observations with the greatest attention.

39. The CHAIRMAN thanked the delegation of Trinidad and Tobago for the information given and noted its commitment to respond to the outstanding questions in its next report He asked Mr. Chigovera, Country Rapporteur, to present his observations.

40. Mr. CHIGOVERA said he hoped that in the near future the Government of Trinidad and Tobago would continue the constructive dialogue it had begun with the Committee. As to access to education, according to paragraph 34 of the report, some denominational schools reflected a preponderance of a particular denomination. According to a United States report on Trinidad and Tobago published in February 1994, there were no final-year classes in the Hindu secondary schools, although, numerically, the Hindu religion was the second most important in the country, and only two such classes in the Muslim schools, which had the effect of restricting access to university by Hindus and Muslims. It would be useful to know whether that was indeed the case and, if so, whether the Government planned to take steps to remedy the situation. According to the same report, Muslims were the victims of discrimination in terms of access to other private schools. It seemed that no law governed the conditions of admission to private schools, which raised the risk of discrimination against certain individuals.

41. While the Sedition Ordinance to some extent facilitated implementation of article 4, subparagraph (a), of the Convention, Trinidad and Tobago had still not declared illegal and prohibited organizations which incited discrimination, nor declared participation in such organizations or activities to be an offence punishable by law, as was its obligation under subparagraph (b) of the same article.

42. The CHAIRMAN thanked the delegation of Trinidad and Tobago for having constructively renewed its dialogue with the Committee and assured it of the Committee's full cooperation.

43. The delegation of Trinidad and Tobago withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

44. Mr. van BOVEN asked why the latest report of Guatemala no longer appeared in the revised programme of work. It was impossible to put off consideration of a country with very serious ethnic problems, especially since the report combined the second, third, fourth, fifth and sixth periodic reports in one document (CERD/C/256/Add.1), and since the second periodic report should have been submitted in 1986.

45. The CHAIRMAN said that the Committee's programme of work had been approved only for the first week. He supported Mr. van Boven's proposal not to defer consideration of the report of Guatemala.

46. Mr. RECHETOV said that Mr. van Boven had drawn the attention of the members of the Committee to the report of just one country, namely Guatemala; he himself would like to see the issue put in a broader context. The Committee was often very critical towards States that had shown their goodwill by submitting their report, whereas it kept silent about States that had never submitted a report; it therefore had a double standard, and was penalizing States that complied with their obligations. The Committee's reputation and effectiveness were at stake. In recent years, about 20 new States had been created and had become members of the United Nations and of other international organizations. The Council of Europe and the Organization for Security and Cooperation in Europe had sent observer missions to those countries to verify that the rights of minorities were being respected. The Committee did not make its voice sufficiently heard, and some States that had acceded to the Convention three years previously had still not submitted their reports. The Committee should take a firm stand towards those States if it did not wish to lose face with other international bodies.

47. The CHAIRMAN said the Committee should indeed adopt a clear position towards the successor States of former States parties to human rights instruments. Contrary to the approach adopted by the Council of Europe, the successor States were automatically bound by obligations under the international human rights instruments as of their respective dates of independence, and compliance with those obligations should not depend on a declaration of confirmation made by the Government of the successor State. Concerning the consideration of the report of Guatemala, he seemed to recollect that it had been dropped from the programme of work because the text was available only in Spanish.

48. Mr. BANTON supported the remarks made by Mr. van Boven and Mr. Rechetov and drew the attention of the members of the Committee to paragraph 6 of the note he had drafted on long overdue reports (CERD/C/46/Misc.3), which reproduced paragraph 17 of the report of the fifth meeting of persons chairing the human rights treaty bodies, in which the chairpersons had called on States parties during their regular meetings to take the appropriate measures in cases of the non-submission of a report.

49. Mr. ABOUL-NASR asked Mr. Rechetov to which countries he was referring, since, as a non-European from the third world, he did not keep up with European problems.

50. Mr. RECHETOV said he had been alluding to the successor States of the former Soviet Union which were members of such bodies as the Commission on Human Rights and the Council of Europe but which were unaware of the Committee's existence.

51. The CHAIRMAN drew the attention of the members of the Committee to the report of the Secretary-General (E/CN.4/1995/80), the annex to which presented

the status of succession or accession to or ratification of human rights treaties by States successors to the former Yugoslavia, the former Soviet Union and the former Czechoslovakia.

52. Mr. YUTZIS said that the Committee should set priorities for the consideration of reports that did not depend only on the delay with which those States parties submitted their reports. The situation in Guatemala, for example, was very serious, as reflected in the reports of the Special Rapporteurs, Mr. Tomuschat and Mrs. Mónica Pinto, and that situation should be considered by the Committee, whether or not the delegation of Guatemala was present. The translation of the report was an internal administrative problem which had nothing to do with the State party.

53. Mr. de GOUTTES said that, given the particular gravity of the situation in Guatemala, the fact that the report had not been translated into French should not constitute a major obstacle to its consideration.

54. The CHAIRMAN proposed that the secretariat should contact the Permanent Mission of Guatemala, inform it that the Guatemala report would be considered at the current session and ask it to send a delegation. The Committee would take a final decision on the procedure to be adopted for the consideration of the report as soon as it had received a reply from the Permanent Mission. He was very concerned about the number of long overdue reports. The Committee was still awaiting 19 initial reports, 19 second periodic reports, 18 third periodic reports, 20 fourth periodic reports, 28 fifth periodic reports, 33 sixth periodic reports and so forth. Failure to comply with international treaty obligations, including a failure to report as required, constituted a violation of international law, and action should be taken against States that did not respect their obligations.

The meeting rose at 12.50 p.m.